



# ASIA PACIFIC JUDICIAL REFORM FORUM

## Working Party Meeting

Sydney, 16-17 March 2006

### Delegates

Australia hosted the first Asia Pacific Judicial Reform Forum Working Party Meeting held at The Westin Hotel Sydney over two days in March 2006. Eight countries were represented at the Meeting which was formally opened by Chief Justice Murray Gleeson, the Chief Justice of Australia. The delegates were:

Country	Name	Position and Institution represented
China	Shen Deyong	Supreme People's Court, Vice President
	Justice Hu Yunteng	Supreme People's Court
	Ms Yu Xiaoyu	Supreme People's Court
India	Justice Arun Kumar	Supreme Court of India
Indonesia	Justice Paulus Efendie	Supreme Court, Deputy Chief Justice for Administrative Jurisdiction
	Lotulung	
	Mr Subagyo	Supreme Court, Head of General Affairs
	Ms Wiwih Awiati Trisnohandoko	Supreme Court, Judicial Reform Team
Malaysia	Justice Richard Malanjum	Court of Appeal
Philippines	Justice Angelina Sandoval-Gutierrez	Supreme Court
	Justice Antonio T. Carpio	Supreme Court
	Justice Conchita Carpio Morales	Supreme Court
	Justice Adolfo S. Azcuna	Supreme Court
	Dir. Evelyn Toledo Dumdum	Supreme Court
	Atty Jennifer J. Manilili	Supreme Court
	Mr Dennis R.D. Baldago	Supreme Court
Russia	Ms Polina Kryuchova	Bureau of Economic Analysis
Thailand	Justice Sobchok Sukharmna	Supreme Court
	Justice Voravuthi Voravuthi	Deputy Secretary General to the President of the Supreme Court
Development partners	Mr Anthony Toft	World Bank, Chief Counsel, East Asia and Pacific Legal Department
	Mr Jak Jabes	United National Development Program, Coordinator Asia Regional Governance Programme
	Mr Daniel Rowland	Australian Agency for International Development, Law and Justice Advisor
	Ms Cate Sumner	Indonesia-Australia Legal Development Facility, Lead Advisor – Judicial Reform

<b>Country</b>	<b>Name</b>	<b>Position and Institution represented</b>
Australia	Justice Hayne Justice Mansfield Justice McClellan Mr Chris Doogan Mr Warwick Soden Mr Ernest Schmatt Ms Jane Probert Ms Elizabeth Connolly Ms Helen Burrows	High Court of Australia (Chair) Federal Court of Australia Supreme Court of NSW High Court Registrar and CEO Federal Court Registrar and CEO Judicial Commission of NSW Executive Director Deputy Registrar, Supreme Court of NSW Federal Court, Manager, Policy and Planning Federal Court, International Program Coordinator

### **Regional priorities for the APJRF**

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Following a discussion on day one of national priorities by representatives from each jurisdiction, the following four themes emerged as those reflective of their national priorities:

- 1. Access to justice**
- 2. Expedition of cases**
- 3. Education**
- 4. Independence**

### **Project priorities discussed by delegates**

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On day two, the working party divided into two groups to discuss each of the four themes. The results of those discussions are provided below.

#### **Group 1**

The group comprised: Vice President Shen Deyong, : Senior Judge Hu Yunteng, Judge Yu Xiaoyu, Justice Kumar, Justice Antonio T. Carpio, Justice Conchita Carpio Morales, Justice Sukharomna, Justice Voravuthi, Mr Dennis R.D. Baldago, Justice McClellan, Mr Ernest Schmatt and Ms Jane Probert.

#### **Handbook for Judicial Reform**

The object is to provide a handbook for all of the countries within the forum which defines:

1. Good (best) practice in particular areas
2. The steps which may be necessary to achieve that practice

Suggested topics to be covered (this will need development and refinement)

1. Physical requirements
2. Caseload management
3. Means of providing access to the Courts
4. Effective codes of conduct
5. Effective financial management
6. Use of technology
7. Administration
8. Training of judges and administrators
9. The use of ADR
10. Access to justice – mobile courts

The fundamental objective of the handbook is to provide a reference document for the judiciary and the executive of each member country.

Our initial thoughts are that it would be necessary to engage one person full time to manage the project and be responsible for the production of the document. This person would be responsible to a Steering Committee of the Forum.

Information from some jurisdictions is already available but it would be necessary to survey member countries to identify their current problems and existing reform projects. From the information gathered benchmarks would be defined and effective responses explained.

This group sees the handbook as a comprehensive document from which individual projects in single countries or groups of countries would logically emerge. The Forum would provide assistance with the development and implementation of individual projects in member countries.

## **Education**

### **Project 1: Best Practices in Judicial Education**

Tasks to be undertaken:

1. Study the processes for judicial education which have been provided within member countries
2. Identify the methods which have provided effective outcomes and those which have not. This will enable an understanding of the type of program which is most effective having regard to the judicial environment in particular countries.
3. Development of recommendations as to the practices for judicial education which should be adopted in individual member countries.

The overall objective of this project is to enable member countries to understand how judicial education can be provided for them and, if necessary, enable them to define a project for which they may seek dedicated funding.

### **Project two: Website**

The object of this project is to provide a website from which member countries and others can access judicial decisions of Supreme Courts and other documents (papers, speeches and the like) dealing with matters of interest to judges.

Because there are already sites in existence and others being developed this project may be capable of being achieved by building upon a site or sites which is already available. It is recognised that language is an impediment to creating a site which is universally available but it is believed that so far as possible a single site with an effective search engine giving access to the widest possible body of knowledge will be a significant contribution to judicial education in the region.

### **Project three: Judicial Exchange**

The purpose of this project is to facilitate the interaction of judicial officers between countries. This already occurs in an ad-hoc way and the number of exchanges is increasing every year.

This project would identify those countries with effective judicial education programs, make that information available to others, and facilitate the participation of other countries in those programs.

The group believe this project could be undertaken by the Secretariat and may not need external support or finance to be achieved.

#### **Project four: Forum Newsletter**

An essential project if the Forum is to succeed will be a regular and informative newsletter. This project will be the responsibility of the Secretariat but will be dependent upon contributions from member countries.

The newsletter would be the vehicle through which the knowledge acquired under project three could be disseminated and provide the opportunity for participating countries to report on outcomes.

#### **Judicial Independence**

The group defined this project as a study with its purpose to provide a report in relation to the following matters:

1. Defining judicial independence – what does it mean
2. The need for judicial independence
3. The means of achieving and impediments to achieving judicial independence
  - Court structures
  - Financial arrangements
  - Remuneration of judges and Court staff
  - Appointment of judges, tenure and dismissal
  - Working conditions of judges and Court staff
  - Court security
4. The ultimate aim of this project would be to identify the shared objectives which comprise “judicial independence” and the means of achieving them.

## Group 2

The group comprised: Justice Paulus Lotulung, Justice Angelina Sandoval-Gutierrez, Justice Adolfo S. Azcuna, Subagyo, Justice Malanjum Ms Evelyn Dumdum, Ms Jennifer Manilili, Ms Wiwiek Awiati Trisnohandoko, Ms Polina Kryuchova, Justice Mansfield, Mr Warwick Soden, Ms Helen Burrows, and Ms Cate Sumner.

PROGRAM	OUTPUT	CONTENT	ACTIVITY	DURATION
<b>Improving access to justice by vulnerable/marginalised groups</b>	Model for increased access to justice	<ul style="list-style-type: none"> <li>Who does the court engage with?</li> <li>How the court engages with difference court users including vulnerable / marginalised groups?</li> </ul>	<ul style="list-style-type: none"> <li>Survey to collect information</li> <li>Survey models of success already employed</li> <li>Development of a new model based on research findings</li> <li>Working Party seminar to discuss and finalise model and its application</li> </ul>	2 months 2 months (incl. in above) 2 months
	Increased awareness of rights	<ul style="list-style-type: none"> <li>Different forms of legal assistance</li> <li>Information on the jurisdiction and processes of taking a matter to court</li> </ul>	<ul style="list-style-type: none"> <li>Survey to collect information</li> <li>Survey models of success already employed</li> <li>Development of a new model for a public education / information program based on research findings</li> <li>Working Party seminar to discuss and finalise model / program and its application</li> </ul>	2 months 2 months (incl. in above) 2 months
<b>Expediting cases and eliminating case backlogs</b>	Model for eliminating case backlogs	<ul style="list-style-type: none"> <li>Define 'backlog'</li> <li>Inventory by conducting an audit of old cases</li> <li>Applicable case management principles</li> <li>Mechanisms to improve / install processes</li> </ul>	<ul style="list-style-type: none"> <li>Agree on definition</li> <li>Judges / registrars to conduct audit / develop inventory</li> <li>Develop a model based on analysis of principles / processes</li> <li>Seminar on approaches to the model and their application</li> </ul>	2 months (incl. in above) 2 months 2 months
	On-going efficient case dispensation strategies	<ul style="list-style-type: none"> <li>Efficient dispensation strategies (incl ADR programs)</li> <li>Principles / processes / capacity building require attention</li> </ul>	<ul style="list-style-type: none"> <li>Conduct assessments</li> <li>Develop a model for implementation</li> <li>Seminar to finalise the model and its application</li> </ul>	2 months 2 months 2 months
	Special case management techniques (CJs & snr judicial officers)	<ul style="list-style-type: none"> <li>Case management techniques as opportunities to eradicate delay and other difficulties</li> </ul>	<ul style="list-style-type: none"> <li>Conduct assessment</li> <li>Develop catalogue</li> <li>Seminar to discuss application</li> </ul>	2 months 2 months 2 months

<b>Increasing public accountability and confidence through independence</b>	Efficient and accountable financial management	<ul style="list-style-type: none"> <li>Financial management tools / processes (incl one line-item budgets)</li> <li>Accountability mechanisms for spending funds</li> <li>Proposals for fiscal autonomy</li> </ul>	<ul style="list-style-type: none"> <li>Conduct comparative study and develop models for success</li> <li>Develop a transition plan</li> <li>Seminar to discuss the application of models</li> </ul>	2 months 2 months 2 months
	Measure public confidence and how to improve it	<ul style="list-style-type: none"> <li>Indicators of public confidence</li> <li>Model for improvement (incl PR, accountability)</li> </ul>	<ul style="list-style-type: none"> <li>Develop indicators</li> <li>Test indicators</li> <li>Analyse and report on results</li> <li>Develop a model to improve confidence (based on results)</li> <li>Seminar to discuss results, models for success and their application</li> </ul>	2 months (incl. in above) 2 months (incl. in above) 2 months
<b>Improve access to and quality of judicial training</b>	Develop policy on and curricula for judicial training	<ul style="list-style-type: none"> <li>Needs assessment models</li> <li>Curricula and syllabus process and content (incl leadership)</li> <li>Procedures to select trainers</li> <li>Effective teaching methods</li> <li>Evaluation system</li> </ul>	<ul style="list-style-type: none"> <li>Study models for all areas</li> <li>Develop models for success</li> <li>Consult with APJEF to formulate responses to training needs</li> <li>Seminar to finalise models and their application with APJEF</li> <li>Each country develops its own policy and curricula</li> <li>APJEF begin to conduct training</li> </ul>	2 months 2 months (incl. in above) 2 months 2 months 2 months
	Website portals for knowledge sharing	<ul style="list-style-type: none"> <li>IT resources / capabilities</li> <li>Quality and quantity of information to be shared</li> </ul>	<ul style="list-style-type: none"> <li>Analyse existing and requisite IT capacity</li> <li>Develop model for information sharing</li> <li>Open portals</li> </ul>	2 months 2 months 2 months

Delegates from the High Court of Australia, the World Bank and United Nations Development Program spent time with both groups providing input to both discussions.

### **Immediate projects under the four themes**

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Following presentations from both groups, the following immediate priorities were identified by the Working Party.

#### **1. Judicial Reform Handbook**

It was agreed that a Handbook for Judicial Reform would be the umbrella project under which all other projects will fall. The Handbook will incorporate the outcomes of a number projects thereby making reference materials available for future use.

Each jurisdiction is invited to submit a paper to the Forum through the Secretariat on the following:

##### **a. Backlog reduction model**

What each jurisdiction sees as appropriate methods of:

- I. identifying backlogs
- II. dealing with backlogs with existing resources
- III. dealing with backlogs through the adoption of new resources/techniques (including ADR)

It was agreed that all papers would be sent to the Secretariat by the end of May 2006.

##### **b. Web based information sharing**

What each jurisdiction considers an appropriate means of using the JRN21 website as a portal to share and receive information.

It was agreed that all papers would be sent to the Secretariat by the end of July 2006.

##### **c. Increasing access to justice by marginalised groups**

Ways to refine the wealth of literature on the subject to be of value. Each jurisdiction will look within its own jurisdiction at methods employed which have assisted in improving access to justice.

It was agreed that all papers would be sent to the Secretariat by the end of July 2006.

##### **d. Identifying and defining judicial independence**

What judicial independence means to each jurisdiction.

It was agreed that all papers would be sent to the Secretariat by the end of July 2006.

## **Secretariat**

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The Philippines nominated Australia to house and run the Secretariat. All other jurisdictions agreed to this proposal. China added that they would like to see a branch-office in the region; the Philippines agreed to assume this role as and when required. Details about the governance structure and roles of the Secretariat members will be provided shortly.

## **Next meetings**

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It was agreed by all delegates that the next working party meeting would be in September 2006 and the general meeting of Forum delegates would be in 2007. Delegates from both China and Malaysia will respond to the Secretariat as to whether they will be in a position to host these meetings.